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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,250	08/30/1999	CHRISTIAN BAILLIF	6206	2378
7590 09/16/2004				
Miles & Stockbridge, P.C. 1751 Pinnacle Drive Suite 1500 McLean, VA 22102-3833		EXAMINER VO, LILIAN		
		ART UNIT	PAPER NUMBER	
		2127		

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/380,250

Applicant(s)

BAILLIF ET AL.

Examiner

Lilian Vo

Art Unit

2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13 and 15 - 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13 and 15 - 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 13 and 15 – 30 are pending.

#### *Claim Objections*

2. **Claims 17 – 21 and 25** are objected to because they are depending on claim 14, which has already been canceled. Since the amended claim 13 includes the features of canceled claim 14, the Examiner will assume these claims depend on claim 13 instead of 14 for the purpose of the examination process.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13 and 15 – 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 13** recites the limitation “starting or stopping a portion of the listener modules”, page 2, lines 9 – 10. How can the listener module(s) be partially stopping or starting? The term portion is considered vague and unclear. Clarification is required to overcome this type of rejection.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13 and 15 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' admitted prior art in view of Boukobza et al. (US 6,122,664, hereinafter Boukobza).

7. Regarding **claim 13**, applicants' admitted prior art teaches the process for assisting in the administration of a distributed application of a transaction processing manager, based on a binary configuration file (TUXCONFIG), characterized in that said process comprises:

retrieving information related to said distributed application in a configuration file of a master machine (Mm) (specification page 1, lines 19 – 30),

checking the consistency of said application running on at least one of several machines (specification page 2, lines 1 – 9),

a listener module is required in each machine when the application is distributed and it manages messages and receives information coming from other machines (specification page 2, lines 15 – 20), and

the administration of listener modules consists of starting and stopping at least one listener module (specification page 3, line 5 – page 4, line 9).

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Applicants' admitted prior art however did not teach the process is automated which performed by a computer program and the listener module in each machine is being managing by a program from another machine for starting and stopping a listener module and activating several listener modules. Nevertheless, Boukobza teaches the process for monitoring a plurality of objects types such as Tuxedo applications of a plurality of nodes from a management node in a data processing system by distributing configured agents (abstract, col. 1, lines 33 – 35, col. 2, lines 39 – 65, col. 3, lines 40 – 49: objects are being configured and distributed. Col. 4, lines 5 – 15 and line 63 - col. 5, line 17 and fig. 1) and the step of starting and stopping of monitoring process of running objects on the machines that are controlled by the management node (col. 2 lines 21 – 65: each agent comprises a plurality of specific modules specific to different object types or to a particular domain which measures static and dynamic parameters specific to the object type it monitors. Col. 5, lines 9 – 17, col. 6, lines 15 - 20).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine the teaching of applicants' admitted prior art to Boukobza to efficiently monitor the operation of one or more distributed applications in a plurality nodes with a program for a global visibility from the management node (col. 2, lines 13 – 20, col. 3, lines 40 – 47, col. 6, lines 36 - 52), thus for ease up the administering process.

8. Regarding **claim 15**, applicants' admitted prior art teaches the step for extracting directly from an active configuration file of the master machine information related to the distributed application (specification page 1, lines 19 – 30 and fig. 8).

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9. Regarding **claim 16**, applicants' admitted prior art further teaches the step for checking the consistency of said application consists of comparing the information obtained from the configuration file of the master machine and the information obtained from said current application running on a given machine (specification page 2, lines 1 – 9).

10. Regarding **claim 17**, applicants' admitted prior art teaches the administration of listener modules consists of starting and stopping at least one listener module, displaying information related to at least one listener module, changing the log of at least one listener module, checking the script of at least one listener module and/or updating the script of at least one listener module (specification page 3, line 5 – page 4, line 9).

11. Regarding **claim 18**, applicants' admitted prior art did not teach the step for starting and stopping a listener module running on a first machine is being carried out by an administrator using a second machine distinct from first machine, but belonging to the same network as the first machine. Nevertheless, Boukobza shows the step of starting and stopping of monitoring process of the objects on the machines that are controlled by the management node (col. 2, lines 21 – 65, col. 5, lines 9 – 17, col. 6, lines 15 - 20).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine the teachings of applicants' admitted prior art with Boukobza to enable an administrator performs the start and the stop monitoring process of the objects on each machine from the management node (machine) so that software distributing can be administered more efficiently.

12. Regarding **claim 19**, applicants' admitted prior art did not teach a step for simultaneously activating several listener modules. Nevertheless, Boukobza shows the step of starting and stopping of monitoring process of the objects on the machines that are controlled by the management node (col. 2, lines 21 – 65, col. 5, lines 9 – 17, col. 6. lines 15 - 20).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine the teachings of applicants' admitted prior art with Boukobza to start the monitoring process of the objects on each machine more efficiently with a program running from the management node.

13. Regarding **claim 20**, applicants' admitted prior art further teaches a step for decompiling the active configuration file of the master machine (specification page 1, line 19 – page 2, line 9).

14. Regarding **claim 21**, applicants' admitted prior art did not teach the additional limitations as claimed. Nevertheless, Boukobza teaches a graphical interface comprising at least one icon and at least one menu, a dialog box for implementing the start and stop of a listener module and the retrieval of information and checking the consistency of the application running on a given machine (abstract, col. 2, lines 21 – 38, col. 3, line 60 - col. 4, line 4, line 34 – col. 5, line 17, col. 12, lines 12 - 17).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine the teachings of applicants' admitted prior art with Boukobza so that management and communication between distributed nodes can be more efficient.

15. Regarding **claim 22**, applicants' admitted prior art did not teach the additional limitations as claimed. Nevertheless, Boukobza teaches the menu of the graphical interface are structured in tree form (col. 35, lines 2 – 23), and the activation of a menu results in a display of a list of values of the current configuration, selectable by the user (col. 3, line 60 – col. 4, line 4, line 35 – col. 5, line 17, col. 7, lines 38 - 49).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine applicants' admitted prior art with Boukobza so that management and communication between distributed nodes can be more efficient.

16. Regarding **claim 23**, applicants' admitted prior art teaches a file containing information about the application running on a given machine in order to be able to use it during the next startup of the listener modules (specification page 3, line 18 – page 4, line 9), except the step for automatically generating the information file of the application when the file does not exist in a given machine. Nevertheless, Boukobza teaches the step for automatically generating a log file if there is not one already (col. 26, lines 6 – 25, col. 5, lines 2 - 9). ).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made, to combine the teachings of applicants' admitted prior art to Boukobza to better assist the administration process with having the history of the application running retains in the generated logfile.



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17. Regarding **claims 24 - 30**, applicants' admitted prior art did not teach the additional limitations as claimed. Nevertheless, Boukobza teaches the information related to at least one listener module is displayed and comprises at least the name of the application (abstract, col. 2, lines 55 – 65, col. 3, line 60 – col. 4, line 4, lines 36 – 63, col. 16, lines 45 - 48), the logical name of the machine on which the application is run (col. 2, lines 55 – 65, col. 7, lines 38 – 58, col. 16, line 66 – col. 17, line 3), the identification of the user (col. 8, lines 33 – 37), the address used by the listener module (col. 3, lines 30 – 39, col. 4, line 63 – col. 5, line - 17), the access path to the network (col. 34, lines 43 – 51), and the access path to the log file of the listener module ( col. 26, lines 8 – 25).

It would have been obvious for one of ordinary skill in the art, at the time the invention was made to combine the teachings of applicants' admitted prior art with Boukobza so that management and communication between distributed nodes can be more efficient.

### *Response to Arguments*

18. Applicant's arguments filed 5/3/04 have been fully considered but they are not persuasive for the reasons set forth below.

19. Regarding applicants' remark that it's important to note the difference between the autonomous agents of Boukobza and the listener modules as claimed because there is only one agent per node while there are as many listener modules as there Tuxedo applications which use it (page 8, last paragraph, 1<sup>st</sup> – 2<sup>nd</sup> sentences), the examiner would like to highlight two points. First, the feature such as "there are as many listener modules as there Tuxedo applications which

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use it” is nowhere recited in the claim. Second, Boukobza discloses that agents and managed objects are being distributed (col. 1, lines 33 – 35, col. 2, lines 21 – 65) and that agents are being installed in each node to be monitored the running objects. Each agent comprising a plurality of specific module specific to the different object types or a particular domain, in which each specific domain measure static and dynamic parameters specific to the object type it monitors. Each autonomous agents makes it possible to ensure the proper running of the monitored applications in all nodes by means of an autonomous and efficient process to rapidly feed back the useful information from the nodes to the management node, and to automatically initiate actions on certain conditions or possible to recommend an action. In other words, each of the distributed objects has a specific module to monitor the events. So if there are two objects, there will be two specific modules associates with each of them. Hence, either of the distributed agents and distributed objects in the plurality of nodes could read on claim 13.

20. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., there are as many listener modules as there Tuxedo applications which use it, such that an application cannot use a machine unless the listener module is active such that if there are more than one application in the machine, each listener module listens at a different port, page 8, last paragraph – page 9, 1<sup>st</sup> paragraph) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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***Conclusion***

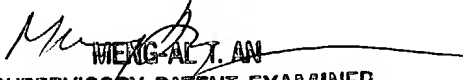
21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo  
Examiner  
Art Unit 2127

lv  
September 13, 2004

  
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